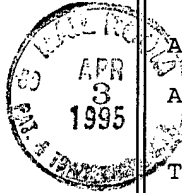


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Gavriel J. Iddan and Doron Sturlesi
 Assignee: State of Israel - Ministry of Defense Armament
 Development Authority-Rafael
 Title: "AN IN VIVO VIDEO CAMERA SYSTEM"
 Serial No.: 08/374,272 Filed: 01/17/95 #4
 Examiner: Unknown Group Art Unit: Unknown
 Attorney Docket No.: M-3171 US

San Jose, California
 March 30, 1995

COMMISSIONER OF PATENTS AND TRADEMARKS
 Washington, D. C. 20231

PETITION TO COMMISSIONER RE:
INCORRECT FILING DATE

Sir:

Applicants' attorney filed, on January 17, 1995, a U.S. Patent application for "An In Vivo Video Camera System" using the Express Mail procedure defined in 37 CFR §1.10. The filed application included a return receipt postcard, which was stamped with Serial No. 08/374,272 and incorrectly date stamped January 18, 1995 by the U.S. Patent and Trademark Office. A true copy of the return receipt postcard is attached hereto as Exhibit A.

On March 7, 1995, Applicants' attorney received a "Notice to File Missing of Application Filing Date Granted" dated March 1, 1995. On this paper, the Application Number was given as 08/374,272 and the filing date was 01/18/95 showing that the error on the return receipt postcard was not corrected.

Attached hereto as Exhibit B is a copy of a transmittal letter for the above application dated January 17, 1995 that was signed by Applicants' attorney. The enclosed copy of the return receipt postcard (Exhibit A) shows that the transmittal letter was received by the Patent Office. On the transmittal letter is an Express Mail certificate that is dated January 17, 1995 and signed January 17, 1995 by Mr. Burt Villalba who

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deposited the application in Express Mail with the U.S. Postal Service on that date for Applicants' attorney.

Attached as Exhibit C hereto is the last page of the above cited application, which also contains an Express Mail certificate dated January 17, 1995, that was signed on that date by Mr. Burt Villalba.

Enclosed as Exhibit D is a true copy of a facsimile of the Express Mail Customer Receipt as received by Applicants' attorney from the U.S. Postal Service. Upon detection of the possible error in the filing date on the return receipt postcard, Applicants' attorney examined the file and discovered that the original of the Express Mail Customer Receipt was not in the file. Consequently, the U.S. Postal Service was contacted by telephone and provided the two pages that are Exhibit D by facsimile. Both the copy of the Express Mail Receipt and U.S. Postal Service Records show that the patent application was deposited in Express Mail on January 17, 1995.

For the reasons given more completely below, Applicants request that the filing date for the above cited application be corrected to January 17, 1995.

37 CFR §1.10 states:

(a) Any paper or fee to be filed in the Patent and Trademark Office can be filed utilizing the "Express Mail Post Office to Addressee" service of the United States Postal Service and be considered as having been filed in the Office on the date that the paper or fee is shown to have been deposited as "Express Mail" with the United States Postal Service unless the date of deposit is a Saturday, Sunday, or Federal holiday within the District of Columbia.

(b) Any paper or fee filed by "Express Mail" must have the number of the "Express Mail" mailing label placed thereon prior to mailing, be addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, and any such paper or fee must also include a certificate of mailing by "Express Mail" which states the date of mailing by "Express Mail" and is signed by the person mailing the paper or fee.

(c) The Patent and Trademark Office will accept the certificate of mailing by "Express Mail" and accord the paper or fee the certificate date under 35 U.S.C. 21(a) ... without further proof of the date on which the mailing by "Express Mail" occurred

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37 CFR §1.6 requires that "Any such letters or papers filed in accordance with §1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service

Tuesday, January 17, 1995 was not a Saturday, Sunday or Federal holiday. Accordingly, the exceptions to granting the Express Mail date under 37 CFR §1.10(a) do not apply. As shown on the Customer Receipt for Express Mail (Exhibit D) the above cited application was addressed as required in 37 CFR §1.10(b). Exhibits B and C demonstrate that the application had the executed Express Mail certificate of mailing as required by 37 CFR §1.10(b).

The enclosed exhibits clearly demonstrate that Applicants' complied with all of the requirements under 37 CFR §1.10 and therefore under 37 CFR 1.6 Applicants' application should have been stamped with the date of January 17, 1995, and consequently granted that filing date under 37 CFR §1.10. Applicants hereby request that the filing date for application Serial No. 08/374,272 be corrected to reflect the correct filing date of January 17, 1995.

Applicants respectfully submit that the reason for this Petition is an error by the U.S. Patent and Trademark Office in determining the filing date and therefore no fees should be owing. If the Commissioner disagrees with Applicants interpretation, the Commissioner is hereby authorized to deduct the fee under 37 CFR §1.17(h) of \$130.00 from Applicants' Deposit Account No. 19-2386. The Commissioner is hereby authorized to charge any other amounts that may be owing or deposit any over payment related to the filing of this Petition to Applicants' deposit account.

Applicants' attorney hereby declares that enclosed Exhibits A, B, and C are true copies of the papers in Applicants' file and that Exhibits A, B, and C in turn are true copies of the papers as filed with the exceptions of the date

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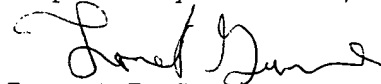
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stamp and Serial number added by the U.S.P.T.O. and the date stamp added by Applicants' attorney on the return receipt postcard. Exhibit D is a true copy of a facsimile received from the U.S. Postal Service. Moreover, Applicants' attorney declares that all statements made of Applicants' attorney own knowledge are true and that all statements made on information and belief are believed to be true and that Applicants' attorney is aware that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing therefrom.

If there are any questions concerning this paper, the Commissioner is respectfully requested to telephone Applicants' attorney at the number given below.

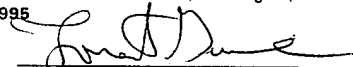
Respectfully submitted,



Forrest E. Gunnison
Attorney for Applicant(s)
Reg. No. 32,899
Telephone: (408) 453-9200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C., 20231, on March 30, 1995

3/30/95
Date of Signature


Attorney for Applicant(s)

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